

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVIEW OF CURRENT RATEMAKING PROCEDURES	DOCKET NO. NOI-03-2
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**ORDER ESTABLISHING RATEMAKING PROCEDURES FOR CONSIDERATION
AND DATES FOR FILING COMMENTS AND REPLIES**

(Issued September 2, 2003)

On July 14, 2003, the Utilities Board (Board) issued an order opening this inquiry to comply with the requirements of the Acts of the 80th General Assembly, 2003 Session, Senate File 458, Section 150. Senate File 458 requires the Board to “initiate and coordinate a review of current ratemaking procedures to determine whether different procedures would be cost-effective and would result in rates that more accurately reflect a utility’s cost of providing service to its customers in Iowa.” On or before January 5, 2004, the Board must file a report with the General Assembly describing the results of its review.

The Board opened this inquiry to allow interested persons to propose changes to current ratemaking procedures, with the focus on proposed changes that would require legislative action. The Board requested that interested persons file a proposal describing those ratemaking procedures the Board should address and the reasons for the proposed changes.

Responses with proposed changes to ratemaking procedures were filed by MidAmerican Energy Company (MidAmerican), Qwest Corporation (Qwest), Interstate Power and Light Company (IPL), Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), Ag Processing Inc (Ag Processing), and Aquila, Inc., d/b/a Aquila Networks (Aquila). The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed comments but did not propose any specific changes to ratemaking procedures. Atmos Energy Corporation (Atmos), Deere & Company, and the Iowa Consumers Coalition (ICC) asked to participate in this proceeding but did not file proposed ratemaking procedures to be considered.

The Board has considered the proposed changes to ratemaking procedures suggested by the parties and has determined which issues should be addressed in this inquiry. The Board addresses the proposed issues and whether they will be considered in this inquiry below. The Board is also providing a comprehensive list of the ratemaking procedures that will be considered in this proceeding and included in the report to the legislature. The basic criterion for determining whether to consider the proposed change in this docket was whether the proposed change would require legislative action. The Board's decision that a proposed change should not be included does not indicate the Board's position on the merits of the proposed change; it only means the Board concludes that the proposed change is not appropriate for consideration in this docket.

PROPOSED CHANGES TO RATEMAKING PROCEDURES

Aquila

Aquila suggested the following two issues for consideration:

1. Implement a framework that provides a utility the option to request that new and/or changed rates be based on prospective financial information. This would allow a utility to be authorized rates that reflect actual costs at the time final rates are effective.

This issue appears to be part of consideration of a future test year and will be considered since it is one of the ratemaking procedures discussed which resulted in the mandate in Senate File 458. This proposed change will be included in this docket because it relates to ratemaking procedures and could require legislation.

2. Grant utilities the authority to automatically recover the costs of government-mandated expenditures. An example is the cost of upgrading facilities in an effort to thwart future terrorist attacks. Other examples include capital costs for relocation of facilities related to construction or improvement of highway, road, public way, or other public work; infrastructure system replacements required to comply with federal or state safety requirements; and costs for underground facilities information requirements.

This issue appears to involve single-issue ratemaking for exogenous factors and will be considered in this docket.

IPL

IPL suggests the following issues for consideration in this docket:

1. IPL suggests that a utility should have the option of choosing between the use of an historical test period and use of a future test period as the basis for a rate review proceeding. IPL proposes the following statutory changes to Iowa Code § 476.33(4):

4. The board shall adopt rules that require the board, in rate regulatory proceedings under section 476.3 and 476.6, to consider, at the utility's option, the use of the most current or future test period possible in determining reasonable and just rates, subject only to the availability of existing actual or and verifiable projected data respecting changes in costs and revenues, and in addition to. If a utility selects a current test period, the board shall consider verifiable data that exists as of the date of the commencement of the proceedings respecting known and measurable changes in costs and revenues that are known and measurable or that will become not associated with a different level of revenue, and known and measurable revenues not associated with a different level of costs, that are to occur at any time within twelve months after the date of commencement of the proceedings. If a utility selects a future test period, the board shall consider data respecting changes in costs and revenues that are projected to occur within 24 months after the date of the commencement of the proceedings. Regardless of the test period chosen by the utility, the board shall consider data respecting changes in costs not associated with a different level of revenues and revenues not associated with a different level of costs. For purposes of this subsection, a proceeding commences under section 476.6 upon the filing date of new or changed rates, charges, schedules or regulations. This subsection does not limit the authority of the board to consider other evidence in proceedings under section 476.3 and 476.6.

IPL states that the proposed changes would allow a utility to choose the future test period option or retain the historical test period option. For a utility choosing to retain the historical test period, the amendments allow the utility to propose changes based upon data that is known and measurable within 12 months of the filing. For the future test period option, the utility could provide projected data for any consecutive 12-month period ending no later than 24 months after the filing is made. Historical data would be required to be filed for comparison purposes.

IPL's first proposal relates directly to the Board's directive to review "proposed changes to current ratemaking procedures, with the primary focus on proposed changes that would require legislative action." The issue of whether a company should have the option of having rates based upon a future test period is a ratemaking procedure that could require legislative action to be adopted. This issue will be considered in this docket.

2. IPL suggests that the Board should consider an amendment to Iowa Code § 476.33(4) that would require the Board to consider pro forma adjustments to year-end rate base and year-end capital structure, with year-end adjustments for revenues. IPL proposes that the Board reevaluate the use of the 13-month average test year in setting rates. IPL recommends amending Iowa Code § 476.33(4) to address these changes as shown below.

4. The board shall adopt rules that require the board, in rate regulatory proceedings under section 476.3 and 476.6, to consider ~~the~~ use of the most current test period possible in determining reasonable and just rates, subject only to the

availability of existing and verifiable data respecting changes in costs and revenues, including but not limited to the cost of capital, and in addition to consider verifiable data that exists as of the date of the commencement of the proceedings respecting that are known and measurable or that will become known and measurable changes in costs not associated with a different level of revenue, and known and measurable revenues not associated with a different level of costs, that are to occur at any time within twelve months after the date of commencement of the proceedings. In determining rates, the board shall consider data respecting changes in costs not associated with a different level of costs. For purposes of this subsection, a proceeding commences under section 476.6 upon the filing date of new or changed rates, charges, schedules or regulations. This subsection does not limit the authority of the board to consider other evidence in proceedings under section 476.3 ad 476.6.

IPL's second proposed change to ratemaking procedures, to authorize pro forma adjustments to year-end rate base and year-end capital structure and year-end revenue adjustments, could also require legislative action. The Board will consider this proposal in this docket.

3. IPL suggests that Iowa Code § 476.6(13) should be amended to allow a utility to request that interim rates be placed into effect immediately, without regulatory review, upon the filing of a rate case. IPL suggests that since any over-collection under interim rates is subject to refund, this would allow for a three-month reduction in the time to render a final decision.

This proposed change relates to ratemaking procedures that could require legislation and will be considered in this docket.

MidAmerican

MidAmerican suggests that this inquiry not be limited to changes requiring legislative action. MidAmerican states that the Board clearly has the statutory authority to adopt ratemaking procedures that promote the statutory directive of this inquiry. Limiting the inquiry to changes requiring legislative action will unnecessarily limit the scope of this inquiry. MidAmerican then provides a list of 15 changes to ratemaking procedures that can be accomplished without legislative action. These proposed changes will not be considered in this inquiry because the Board has limited time in this docket and must focus its efforts on ratemaking procedures that could require legislative action to implement. This does not mean MidAmerican's proposals are without merit; the Board is expressing no opinion in that respect. Instead, the Board is merely limiting the scope of this proceeding to the issues that are appropriate for ultimate inclusion in a report to the General Assembly.

MidAmerican also provides three changes that would appear to require legislative action. Those suggested changes are:

1. The Board should seek legislative action to allow electronic delivery of customer notices of rate increases or to allow the notice to be sent as a bill stuffer during the first month after the date of filing instead of the day of or prior to filing.

Parts of MidAmerican's first issue would appear to require legislative action to amend Iowa Code § 476.6(5). The Board will consider in this docket the proposal to allow electronic notification of a general rate increase application and to allow for

notification within 30 days after the filing. The Board does not consider the proposed change to allow notification by mail stuffers to require legislative action and will not consider it in this inquiry. The Board has the authority under Iowa Code § 476.6(5) to prescribe the manner and method that the written notice to each affected customer shall be served; changes to those existing procedures can be considered in another docket, if necessary.

2. Consideration should be given to authorizing rate adjustments in a context other than a rate case review of all items of cost of service. This limited-issue ratemaking authority could address items that produce only small amounts of revenue but that can provide benefits to customers.

MidAmerican's second proposed change appears to be a proposal for single-issue ratemaking. This change could require legislative action and will be considered in this inquiry.

3. The Board should consider a mechanism that would allow approval of a utility's voluntarily-filed ratemaking plan that would establish rates for a fixed period of time.

MidAmerican's third proposed change to allow approval of a voluntarily-filed ratemaking plan that would establish rates for a fixed period could require legislative action and will be considered.

Iowa Telecom

Iowa Telecom suggests the following proposed changes to ratemaking procedures for the Board's consideration.

1. Modify Iowa Code § 476.1 to include a "rural telephone company" as defined in the federal Telecommunications Act of 1996 as exempt from rate regulation.

This proposed change does not relate to ratemaking procedures that would be cost-effective and result in rates that more accurately reflect a utility's cost. It is, therefore, beyond the scope of this docket and will not be considered here.

2. Delete the language in Iowa Code § 476.6(13) setting the interest rate for temporary rates and set the rate at the rate payable for money market accounts.

This issue involves a ratemaking procedure that could require legislative action and will be considered in this inquiry. Since Iowa Code § 476.97(11)"j" includes the same provision concerning interest rates on refunds, the Board will also consider a change to that statutory provision

3. Add an additional paragraph to Iowa Code § 476.11 as follows: "Toll connections may be discontinued without permission of the board for nonpayment of account after 15 days notice of default." This proposed change will not be considered in this docket. It is not a ratemaking procedure; it is an inter-carrier billing and collection issue.

4. Strike the words "to the extent reasonable and lawful" from Iowa Code § 476.95(2) and replace them with "where appropriate." This proposal does not relate to a ratemaking procedure and will not be considered in this docket.

5. Eliminate Iowa Code § 476.97(11)"c" since all rate-regulated telecommunications carriers have elected price plans. This paragraph requires that carriers electing price regulation pursuant to Iowa Code § 476.97(11) must reduce their initial rates by 3 percent or have a rate case prior to entering price regulation.

This proposed change will be considered to determine whether it is a rate making procedure that is no longer necessary. The Board will also consider elimination of the same provision in Iowa Code § 476.97(3)"a"(4).

6. Increase the cap on annual price increases for non-basic services in Iowa Code § 476.97(11)"e"(3) from 6 percent to 10 percent. This proposed change is a ratemaking procedure that could require legislation to change and will be considered in this docket.

7. Remove the total service long run incremental cost price floor for basic communication service in Iowa Code § 47.97(11)"e"(4) and replace it with an incremental cost standard. This proposed change is a ratemaking procedure that could require legislation to change and will be considered in this docket.

8. Eliminate Iowa Code § 476.97(11)"e"(6) since all rate-regulated companies have elected price regulation. This section requires some price-regulated

carriers to reduce their intrastate access service rates to the level of their interstate access service rates over a period of years.

This proposed change will be considered to determine whether it is a ratemaking procedure that is no longer necessary. The Board will also consider changing Iowa Code § 476.97(3)"a"(1) and (2), which contain similar provisions.

9. Add new subsection 6 to Iowa Code § 476.97(11)"e" that provides "[p]rice increases or decreases may be established on an individual exchange basis." This proposed change is a ratemaking procedure that could require legislation to implement and will be considered in this docket.

10. Change three years to two years in Iowa Code § 476.97(11)"h"(2) to allow more frequent modification of price plans to reflect the rapidly changing telecommunications market. This proposed change is a ratemaking procedure that could require legislation to implement and will be considered in this docket.

11. Delete the provision in Iowa Code § 476.97(11)"h"(2) that allows the Board to extend consideration of a modification to a price regulation plan an additional 60 days for good cause shown. This proposed change is a ratemaking procedure that could require legislation to implement and will be considered in this docket.

12. Modify Iowa Code § 476.97(11)"h" by adding the following language to the end; "In reaching its decision, the board shall strive to promote the goal of stimulating economic development in rural communities throughout the state. In

considering the carriers proposal for modification, the board shall make a finding on the impact of its decision on economic development in the service territory of the local exchange carrier."

This proposed change is a ratemaking procedure that could require legislation to implement and will be considered in this docket.

13. Delete Iowa Code § 476.97(11)"i" relating to access charges during price regulation. This proposed change is a ratemaking procedure that could require legislation to change and will be included in this docket.

14. Add "or other undertaking approved by the board" after the requirement for a bond in Iowa Code § 476.97(11)"j". This proposed change is a ratemaking procedure that could require legislation to implement and will be considered in this docket.

15. Add as the second sentence in Iowa Code § 476.97(12)"c" [SF 368] the following: "The amount may be increased by the board above two dollars to the extent that the board finds the increase to be necessary and appropriate to accomplish a broadband initiative plan." This proposed change will not be considered in this inquiry. The amount was just set last legislative session and no plans have been filed or considered. As a result, there is no information upon which to determine whether a new amount is appropriate.

16. Amend the application of the requirement for consideration of the average costs of a carrier upon the sale of an exchange in Iowa Code § 476.99(1) by

adding "in excess of 5,000 access lines" after "an exchange." This proposed change is a ratemaking procedure that could require legislation to implement and will be considered in this docket.

Qwest

Qwest suggests the following proposed changes:

1. Qwest states that the legislature's intent is that rates more accurately reflect a utility's cost of providing service to Iowa customers. To accomplish this goal, Qwest recommends Iowa Code §§ 476.1D(4) and 476.98 be revised to remove any reference to the sale of classified directory advertising. Each of the three rate-regulated telecommunications companies operates under a price plan, so the Board does not determine the companies' rates. The imputation of directory advertising revenues is a subsidy to ratepayers.

Qwest raises a proposed change to a ratemaking procedure that could require legislation to implement. The Board will include in this docket a consideration of the proposed changes to Iowa Code §§ 476.1D(4) and 476.98 to remove the references to classified directory advertising.

2. Qwest also proposes the ratemaking procedures applied to the Board's jurisdiction to regulate the level of access rates should be considered in this inquiry. Qwest states that the Board's ratemaking procedures exclude the exercise of the authority granted the Board in Iowa Code § 476.11 and the Board should revise its procedures to make a determination of just and reasonable access rates.

The Board does not consider the issue of access charges under Iowa Code § 476.11 to be a ratemaking procedure. The issue involves interconnection between carriers and does not come within the scope of this inquiry.

Consumer Advocate

Consumer Advocate suggests that no amendments of Iowa Code § 476.33(4) are necessary to allow a company to use a future test period for setting rates. Consumer Advocate states the Board has already interpreted the last sentence in this section to allow consideration of additional data other than the data described in the first sentence. Consumer Advocate suggests that the Board has allowed items in the revenue requirement that are not verifiable, known, and measurable or were beyond the date of the commencement of the proceeding.

Consumer Advocate contends that the Board, under its current interpretation of Iowa Code § 476.33(4), could consider a future test year and no legislative action is necessary. Consumer Advocate states that it disagrees with this interpretation and the two Iowa Supreme Court decisions that have upheld the Board on this issue. Consumer Advocate then provides a summary of cases and argues that the Board has misinterpreted the last sentence of Iowa Code § 476.33(4) and has rendered the first sentence of the section superfluous.

Finally, Consumer Advocate argues that the Board's interpretation of Iowa Code § 476.33(4) creates uncertainty and a lack of identifiable precepts for the parties in a general rate proceeding to follow. Consumer Advocate contends that the

Board's interpretation that it can allow or disallow any cost or expense for any reason good and sufficient unto itself, forces the parties to try to anticipate what unknown factors may be relevant to the Board. An acknowledgement by the Board that the first sentence must be amended to allow for consideration of a future test period would be an admission that the Board's interpretation that the first sentence requirements are just tools and standards is not correct. Consumer Advocate then states that if the Board is to be consistent with its interpretation of the section, it should inform the legislature that there is no need for legislative action since the Board already has the requisite authority.

The issues raised by Consumer Advocate may be addressed in the context of more specific issues.

Ag Processing

Ag Processing suggests the following changes:

1. Ag Processing opposes use of forecasted test periods in future rate cases. Ag Processing contends that forecasted test periods add to the cost of litigating rate cases while not necessarily providing a more accurate cost of service. Added litigation costs increase the cost to Ag Processing and reduces its ability to compete with foreign competitors.

The proposed change to allow the use of a future test period is already included in the proposed changes to be considered in this inquiry. Ag Processing's

comments regarding the merits of the proposal will be considered with that proposed change.

2. Exempt industry from energy efficiency programs and costs. Ag Processing believes that this would improve the business climate in Iowa immediately without affecting the overall purpose of energy efficiency.

This proposed change is a ratemaking procedure that could require legislation to implement and will be considered in this docket.

3. Adopt procedures that encourage better access to natural gas supplies in Iowa such as bypass and use of alternate fuels.

This proposed change will not be considered in this docket. Access to better natural gas supplies is not a ratemaking procedure.

LIST OF PROPOSED CHANGES TO BE CONSIDERED

The Board will establish dates for filing comments concerning the proposed ratemaking procedures to be considered in this inquiry and replies to those comments. The comments and replies should refer to the proposed changes by the numbers listed below.

1. Use of future test period, including capital costs, for determining just and reasonable rates for rate regulated utilities. Commenters should address the proposed changes to chapter 476 described in this order and provide any other statutory changes recommended.

2. Grant utilities the authority to automatically recover the costs of government-mandated expenditures. Commenters are asked to provide the specific types of expenditures that should be considered under this proposal and specific statutory language to accomplish the proposed change.

3. Amend Iowa Code § 476.33(4) to require the Board to consider pro forma adjustments to year-end rate base and year-end capital structure, with year-end adjustments for revenues. Commenters are invited to address the specific amendments proposed by IPL and the issue of year-end adjustments in general.

4. Allow a utility to request that interim rates be placed into effect immediately, without regulatory review, upon the filing of a rate case, and a reduction of the ten-month period the Board has to consider an application for permanent rates.

5. Allow electronic delivery of customer notices of proposed rate increases.

6. Establish limited issue ratemaking authority to allow rate adjustments that produce small amounts of revenue to be implemented outside of a general rate proceeding. Commenters are asked to provide specific statutory language to accomplish this change, including any specific limits for such rate adjustments, the revenue that might be produced, and how to quantify any benefits to customers.

7. Establish a mechanism that would allow approval of a ratemaking plan that would establish rates for a fixed period of time.

8. Delete the current language in Iowa Code §§ 476.6(13) and 476.97(11)"j" setting the interest rate for temporary rates and set the rate at the rate payable for money market accounts.
9. Consider whether the requirements in Iowa Code §§ 476.97(11)"c" and § 476.97(3)"a"(4), relating to initial rates when entering price regulation, are no longer necessary and should be deleted from the statute.
10. Increase the cap on annual price increases for non-basic services in Iowa Code § 476.97(11)"e"(3) from 6 percent to 10 percent.
11. Remove the total service long run incremental cost price floor for basic communication service in Iowa Code § 476.97(11)"e"(4) and replace it with an incremental cost standard.
12. Consider whether the requirements in Iowa Code §§ 476.97(11)"e"(6) and 476.97(3)"a"(1) and (2), relating to reducing access service rates upon entering price regulation, contain procedures that are no longer necessary and should be deleted from the statute.
13. Add a new subsection 6 to Iowa Code § 476.97(11)"e" that provides "[p]rice increases or decreases may be established on an individual exchange basis."
14. Change three years to two years in Iowa Code § 476.97(11)"h"(2) to allow more frequent modification of price plans to reflect the rapidly changing telecommunications market.

15. Delete the provision in Iowa Code § 476.97(11)"h"(2) that allows the Board to extend consideration of a modification to a price regulation plan an additional 60 days for good cause shown.

16. Modify Iowa Code § 476.97(11)"h" by adding the following language to the end: "In reaching its decision, the board shall strive to promote the goal of stimulating economic development in rural communities throughout the state. In considering the carriers proposal for modification, the board shall make a finding on the impact of its decision on economic development in the service territory of the local exchange carrier."

17. Delete Iowa Code §§ 476.97(11)"i" and 476.97(3)"c"(3) relating to further reduction of access charges during price regulation.

18. Add "or other undertaking approved by the board" after the requirement for a bond in Iowa Code § 476.97(11)"j".

19. Amend the application of the requirement for consideration of the average costs of a carrier upon the sale of an exchange in Iowa Code § 476.99(1) by adding "in excess of 5,000 access lines" after "an exchange."

20. Amend Iowa Code §§ 476.1D(4) and 476.98 to remove any reference to the sale of classified directory advertising.

21. Exempt industry from energy efficiency programs and costs.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The 21 proposed changes to ratemaking procedures described in this order will be considered by the Board in this inquiry.
2. Comments addressing the proposed changes to ratemaking procedures must be filed on or before September 15, 2003.
3. Reply comments must be filed on or before October 3, 2003.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 2nd day of September, 2003.